



State of Washington
REPORT OF EXAMINATION
FOR APPLICATION TO STORE WATER
FOR BENEFICIAL USE

PRIORITY DATE
2/27/2009

WATER RIGHT NUMBER
R3-30578

MAILING ADDRESS
WILLIAM WOLTERING
202 TRAPPER ROAD
GARFIELD WA 99130

SITE ADDRESS (IF DIFFERENT)

Purpose and Quantity

| PURPOSE | STORAGE QUANTITY | | | PERIOD OF USE |
|---------------------------------------|------------------|--------------|-------|---------------|
| | ADDITIVE | NON-ADDITIVE | UNITS | |
| Fish Propagation and Wildlife Habitat | 10 | | AF | 01/01 - 12/31 |

Source Location

| COUNTY | WATERBODY | TRIBUTARY TO | | | WATER RESOURCE INVENTORY AREA | | |
|---------------|---------------------|---------------|-----|-----|-------------------------------|----------|-----------|
| PEND OREILLE | UNNAMED SPRING | BRACKET CREEK | | | 62-PEND OREILLE | | |
| | | | | | | | |
| Project | Dam Safety File No. | TWP | RNG | SEC | QQ Q | LATITUDE | LONGITUDE |
| Woltering Dam | PO62-1942 | 31 | 44 | 04 | NENE | | |

LEGAL DESCRIPTION OF SUBMERGED LANDS

A tract of land located in the NE $\frac{1}{4}$ of Section 4: the east 750 feet of Govt Lot 1 and the east 750 feet of the north half of the southeast quarter of the northeast quarter of Section 4, T. 31 N, R. 44 E.W.M.

| Specifications of Impounding Structure | | |
|--|------------------------------|---|
| HEIGHT OF DAM | LENGTH ON TOP (ft) | WIDTH ON TOP (ft) |
| 15 | 70 | 18 |
| SLOPE OF FRONT OR WATER SIDE (horizontal: vertical) | | SLOPE OF BACKSIDE (horizontal: vertical) |
| 2:1 | | 2:1 |
| NORMAL OPERATING POOL LEVEL (ELEVATION FT) | | HEIGHT OF DAM ABOVE WATER LINE AT NOPL (ft) |
| 11 | | 4 |
| TYPE OF DAM AND CONSTRUCTION MATERIALS | | |
| Earth Fill | | |
| LOCATION AND APPROXIMATE DIMENSIONS OF SPILLWAY INCLUDING CREST LENGTH | | |
| 12 inch pipe emergency spillway on the east side of the dam | | |
| LOCATION, SIZE AND TYPE AND OUTLET VALVE AND OUTLET CONDUIT STRUCTURE | | |
| 12 inch diameter Trickle Tube or Drop-inlet spillway through the center of the dam | | |
| NUMBER OF ACRES SUBMERGED WHEN RESERVOIR IS FILLED TO NOPL | MAXIMUM DEPTH (FEET) AT NOPL | APPROXIMATE AVERAGE DEPTH (FEET) |
| 1 | 11 | 11 |

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

443104010001, 443104010003

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

A tract of land located in the NE¼ of Section 4: the east 750 feet of Govt Lot 1 and the east 750 feet of the north half of the southeast quarter of the northeast quarter of Section 4, T. 31 N, R. 44 E.W.M.

Development Schedule

| BEGIN PROJECT | COMPLETE PROJECT | PUT WATER TO FULL USE |
|---------------|------------------|-----------------------|
| Begun | Complete | November 1, 2015 |

Provisions**1. Dam Safety**

Dam owners are required to evaluate the safety of their dam and all appurtenant works and to make modifications, as become necessary, to reasonably secure safety to life and property. For current requirements, please contact the dam safety office at the Department of Ecology, (360) 407-6623.

RCW 90.03.350 provides that any person intending to construct a dam or controlling works for the storage of 10 acre-feet or more of water shall, before beginning of construction, submit plans and specifications thereof to the Supervisor and secure his approval as to its safety. No dam or controlling works shall be constructed or modified without the plans and specifications being examined and approved as to the safety of the project by the Dam Safety Program of the Washington Department of Ecology.

The plans and specifications must be prepared by a properly-qualified, professional engineer and carry his signature and seal. They must be submitted in duplicate such that one copy may be retained in this office when the other is approved and returned to the applicant. No special plans will be required unless those submitted are found to be incomplete. Plans and specifications prepared by government agencies not bearing the seal and signature of a professional engineer are acceptable only if endorsed by the principal or responsible engineer of the agency.

The permittee needs to comply with the recommendations of the Dam Safety Office prior to submittal of a Proof of Appropriation.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. R3-30578, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

| Street Addresses | Mailing Addresses |
|--|---|
| Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 | Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 |
| Pollution Control Hearings Board 1111 Israel RD SW Ste 301 Tumwater, WA 98501 | Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903 |

Signed at Spokane, Washington, this day of 2012.

Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

BACKGROUND

An application to construct a reservoir and store water was submitted by William Woltering of Garfield, Washington to the Department of Ecology on February 27, 2009. The application was accepted and assigned Reservoir Application Number R3-30578. The applicant proposes to store water in the amount of 10.0 acre-feet by impounding waters of an unnamed spring, a tributary to Bracket Creek and the Pend Oreille River. The impounding structure is located within the NE¼ of Section 4, T. 31 N., R. 44 E.W.M., Pend Oreille County, WA.

A reservoir permit is required when constructing a barrier across a stream, channel or water course and which will retain for a beneficial use, a portion of the annual runoff of the stream or water course. A reservoir is defined as any dam or dike storing water to a depth of 10 or more feet at its deepest point, or one that is retaining 10 or more acre-feet of water. (WAC 508-12-260).

A notice of application was published in accordance with RCW 90.03.280 in the Newport Miner on September 12 and 19, 2012 and no protests were received.

This application is not categorically exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21C RCW. A SEPA Determination of Non-Significance was issued by Keith Stoffel on July 21, 2009.

INVESTIGATION

A field investigation was conducted on October 9th, 2008, by Kevin Brown and Douglas Johnson with Mr. Woltering. The reservoir is constructed and located within Water Resource Inventory Area (WRIA) 62, the Pend Oreille River Watershed.

The existing pond is located within the NE¼ of Section 4, T. 31 N., R. 44 E.W.M. The pond is about one acre in size with an average depth of about 10 feet. The pond is constructed in the headwaters of the basin. Very little overland flow contributes to the pond other than spring runoff. The pond is primarily filled by underground springs. At the time of the field exam no water was entering or overflowing from the dam.

When considering an application for a new water right permit, the Department of Ecology must first determine that the following statutory requirements are met:

1. The proposed use of water will be a beneficial one;
2. There is water available for appropriation;
3. There will be no impairment to existing water rights;
4. The requested water right will not be detrimental to the public interest.

This discussion focuses on the questions of availability, impairment of existing rights, and the public interest.

Impairment of Existing Water Rights/Water Availability

The proposed project is located on the upper end of Bracket Creek. The proposed water use (wildlife habitat and fish propagation) is non-consumptive and therefore will cause no impairment to any existing water rights in the area.

Public Interest

This project will result in the non-consumptive use of water, and provide natural resource benefits. The project will support wetland-dependent species by providing shallow water habitat from early spring through the summer months.

Additionally, RCW 90.03.255 (Applications for water right, transfer, or change—Consideration of water impoundment or other resource management technique) states, in part: "The legislature finds that in many basins in the state there is water available on a seasonal basis that

is in excess of the needs of either existing water right holders or instream resources. The legislature finds that excess waters often result in significant flooding and damage to public and private resources. Further, it is in the public interest to encourage the impoundment of excess water and other measures that can be used to offset the impact of withdrawals and diversions on existing rights and instream resources. Further, in some areas of the state, additional supplies of water are needed to meet the needs of a growing economy and population. The legislature finds there is a range of alternatives that offset the impacts that should be encouraged including the creation, restoration, enhancement, or enlargement of ponds, wetlands, and reservoirs and the artificial recharge of aquifers. The purpose of this act is to foster the improvement in the water supplies available to meet the needs of the state. It is the goal of this act to strengthen the state's economy while maintaining and improving the overall quality of the state's environment."

As indicated above, the proposed project would be considered a non-consumptive water use and would provide natural resource benefits to the area. This project as it has been constructed would enhance the quality of the natural environment and therefore it would be in the public interest to authorize a reservoir permit. A permit authorized under this application for non-consumptive water use will not affect the minimum instream flows of the Pend Oreille River.

CONCLUSIONS

It is the conclusion of this examiner: that public water is available for appropriation for a beneficial use; that non-consumptive wildlife habitat and fish propagation is a beneficial use; that the appropriation of such water will not impair existing rights or be detrimental to the public welfare.

RECOMMENDATIONS

It is recommended this application to construct a reservoir and store public water should be **APPROVED** in the amount of 10 acre-feet, continuously, for non-consumptive wildlife habitat and fish propagation, subject to the following provisions:

This authorization does not allow any diversion from the reservoir for any purpose(s).

The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required.

This authorization to make use of public waters of the state is subject to existing water rights, including any rights held by the United States for the benefit of Indians under treaty or otherwise.

Signed at Spokane, Washington this .

Kevin Brown
Water Resources Program
Department of Ecology